



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
P.O. Box 17087
Denver, CO 80217-0087

DOR_TaxPolicy@state.co.us

GIL-11-009 (UPDATED)

February 6, 2018

XXXXXX
XXXXXX
XXXXXX
ATTN: XXXXXX

Re: Taxability of manufacturer rebates

Dear XXXXXX,

You submitted on behalf of XXXXXX (“Company”) a request for guidance on the application of sales tax on manufacturer rebates. The department issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues and is not binding on the department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the department but not the taxpayer, and requires payment of a fee. For more information about general information letters and private letter rulings, please see Department regulation 24-35-103.5 at www.taxcolorado.org > FYI/Publication > Rulings.

The Department issued a General Information Letter to you dated June 1, 2011 in response to your request. The Department has had an opportunity to review the letter and issues this amended letter, which deletes, “either directly to the customer or indirectly through the utility”, in the first sentence of the second paragraph under the Discussion section. This amendment does not change the guidance provided in the original letter.

Issue

1. Are manufacturer rebates included in the total gross receipts subject to Colorado sales tax?
2. Are rebates provided by utility companies included in the total gross receipts subject to Colorado sales tax?
3. If a utility company’s rebate program is funded by a state or local government agency, would sales tax be applicable to the total purchase price or the purchase price after the rebate is deducted.

4. If a rebate is provided directly by a state or local government agency, would sales tax be applicable to the total purchase price or the purchase price after the rebate is deducted.

Background

Company participates in rebate programs upon the purchase of qualifying merchandise. In order to receive the rebate, customers are generally required to submit a rebate form and proof of purchase to the third party offering the rebate. After the third party receives and verifies the necessary documentation, a check will be sent directly to the qualifying customer.

However, Company has started to provide customers with instant point of sale rebates; thus, qualifying customers are no longer required to submit the rebate forms and proof of purchase to the third parties providing the rebate. Company is now responsible for submitting the necessary sales documentation to the third party, who will reimburse Company for the instant point of sale rebate provided to the customer. The question at issue is whether the purchase price before or after deducting the rebate is applicable to the sales tax calculation?

Discussion

Colorado sales tax is levied on the "purchase price paid or charged." §39-26-104(1), C.R.S. "Purchase price:" means "the amount of money received or due in cash and credits [and] ... [a]ny consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price ..." Department regulation 39-26-102.7(a)(1) and (3). Thus, manufacturer rebates are included in the tax base when calculating the sales tax.

Rebates issued by a utility company or by a governmental entity are functionally the same as a rebate issued by a manufacturer. These rebates are used to pay a portion of the purchase price and must be included in the tax base, just as a payment of some or all the purchase price by "someone else" is included in the tax base. See, e.g., Department GIL-08-022 (federal rebates for purchases of TV converter boxes included in tax base).

Miscellaneous

Pursuant to state law and department regulation 24-35-103.5, noted above, the Department will make public a redacted version of this letter. Your letter requesting this general information letter is not made public. I enclose a proposed redacted version of this letter. Please contact me within 60 days from the date of this letter if you have any questions, comments, or objection concerning the redacted letter.

I hope this is helpful. Please feel free to contact me if you have any questions.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

STATE OF COLORADO

DEPARTMENT OF REVENUE
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John Hickenlooper
Governor

Roxanne Huber
Executive Director

GIL-11-009

June 1, 2011

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The department initially treats your request as one of a general information letter. If you would like the department to issue a private letter ruling on the issues you raise, you can resubmit a request and fee in compliance with regulation 24-35-103.5. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not a determination of the tax consequence of any particular action or inaction.

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Neil L. Tillquist
Colorado Department of Revenue